

CHAPTER 31
ADMISSION TO THE BAR**Rule 31.1 Board of law examiners.****31.1(1) Composition.**

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f. The executive director of the office of professional regulation will designate ~~an assistant a~~ director ~~for of~~ admissions of the office of professional regulation to serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the "~~assistant~~ director" appears, it will refer to the ~~assistant~~ director ~~for of~~ admissions of the office of professional regulation.

g. The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court authorizes payment as provided in the budget. A separate bank account designated as the admissions operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the admissions operating account for payment of the board's authorized expenditures.

h. Claims against members of the board and the executive director, ~~assistant~~ directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

i. The board of law examiners and its members, employees, and agents; temporary law examiners; and the executive director, ~~assistant~~ directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, and omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

j. Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the board of law examiners, its members, employees, or agents, or to the executive director, ~~assistant~~ director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

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Rule 31.5 Bar examination application; contents and deadlines.

31.5(1) The board of law examiners and the ~~assistant~~ director will designate such forms as may be necessary for application for examination. The application must require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the ~~assistant~~ director determine to be necessary and proper.

31.5(2) Every applicant for admission to the bar must make application, under oath, and upon a form designated by the ~~assistant~~ director. The applicant must file the application with the ~~assistant~~ director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next

examination must file a new application within the above deadlines or within 30 days of the date the applicant's score is posted in the office of professional regulation, whichever is later. There will be no waiver of these deadlines. If any changes occur after the application is filed that affect the applicant's answers, the applicant must amend the application. A new and complete application must be filed for each examination for admission.

31.5(3) The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the ~~assistant~~-director must segregate that portion of the application data deemed confidential from the portion that is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.9(2) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

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Rule 31.9 Moral character and fitness.

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31.9(2) *Denial of permission to take bar examination; denial of recommendation for admission.* When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board must notify the applicant in writing of its determination.

a. The notice must provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the ~~assistant~~-director within 10 days after service of the notice.

b. The ~~assistant~~-director must serve the notice on the applicant by mail to the address shown on the applicant's application.

c. If no request for hearing is filed, the board's determination will be final and not subject to review.

d. If a request for hearing is filed, the chair of the board must appoint an attorney member of the board to act as a hearing officer. The hearing officer must promptly set a hearing, and the ~~assistant~~-director must notify the applicant by mail at least 10 days before the hearing date of the time and place of hearing.

e. Not less than 10 days before the hearing date, the board must furnish the applicant with copies of all documents and summaries of all other information the board relied on in making its determination.

f. The clerk of court in the county where the hearing is held has authority to issue any necessary subpoenas for the hearing.

g. At the hearing, the applicant has the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing must be reported. The hearing officer may take judicial notice of the information the board considered in the case and may consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board may first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant may present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing, the hearing officer will have the power and authority administrative hearing officers possess generally.

h. Within 30 days after completion of the hearing, the hearing officer must

provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board will prepare and file its final determination with the ~~assistant~~-director. The ~~assistant~~-director must, by mail, promptly notify the applicant of the board's final determination.

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31.9(5) *Failure to comply with support order.* The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

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d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the ~~director of the~~ office of professional regulation is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

31.9(6) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission.

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d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

31.9(7) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU).

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d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the ~~director of the~~ office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify applicants subject to enforcement under Iowa Code chapter 272D.

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Rule 31.13 Proofs of qualifications; oath or affirmation.

31.13(1) ~~Required certificates and fingerprint card.~~ To qualify for admission under rule 31.12, an applicant must file the following with the office of professional regulation:

a. A certificate of admission in the applicant's state of licensure.

b. A certificate from one or more of the following individuals establishing that the applicant was regularly engaged in the practice of law in the applicant's state or states of licensure for at least five of the last seven years immediately preceding the date of the application: a clerk or judge of a court of record, a judge advocate general, or an administrative law judge. If, due to the nature of the applicant's practice, the applicant cannot obtain a certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant must file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition,

the applicant must file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

~~e. A completed fingerprint card.~~

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Rule 31.16 Registration of house counsel.

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31.16(2) Procedure for registering. The lawyer must submit to the office of professional regulation the following:

a. If a domestic lawyer, a completed application in the form the office of professional regulation prescribes.

b. If a foreign lawyer, a foreign-licensed attorney application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay the investigative fee that the National Conference of Bar Examiners requires at the time of filing the application.

c. A nonrefundable application fee in the amount of \$800 payable to the Iowa board of law examiners.

~~d. A \$200 client security assessment payable to the Client Security Commission.~~

ed. Documents proving admission to practice law, current active status, and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law.

fe. A certificate from the disciplinary authority of each jurisdiction of admission, United States and foreign, stating that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or a certificate that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the lawyer, and any pending charges, complaints, or grievances.

gf. If the jurisdiction is foreign and the documents are not in English, the lawyer must submit an English translation and satisfactory proof of the accuracy of the translation.

hg. An affidavit from an officer, director, or general counsel of the employing entity attesting as follows:

(1) The entity will be employing the lawyer.

(2) To the best of its knowledge the lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) To the best of its knowledge the lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The entity will promptly notify the Client Security Commission of the termination of the lawyer's employment.

ih. An affidavit from the lawyer attesting as follows:

(1) The name of the entity that will be employing the lawyer.

(2) The lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) The lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to the lawyer's work for the entity and to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The lawyer will promptly notify the Client Security Commission of the termination of the lawyer's employment.

ji. Any other document the supreme court requires to be submitted.

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31.16(6) Reinstatement. A registered lawyer whose registration is terminated under rule 31.16(5)(a) may be reinstated within 180 days of termination upon submission to the office of professional regulation all of the following:

a. An application for reinstatement in a form the office of professional regulation prescribes.

b. A reinstatement fee in the amount of \$100.

c. Affidavits from the current employing entity and the lawyer as prescribed in rules ~~31.16(2)(h)~~31.16(2)(g) and ~~(h)~~(h).

d. Current versions of the documents and certificates required in rules ~~31.16(2)(e)-(g)~~31.16(2)(d)-(f).

CHAPTER 34 ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

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Rule 34.2 Grievance commission; vice chair duties. The executive director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. The executive director of the office of professional regulation and the grievance commission chair must designate a vice chair. In the chair's absence or inability to act, the vice chair must perform all duties of the chair.

Rule 34.3 Substitutions and vacancies on the grievance commission.

34.3(1) In the absence of the grievance commission chair and vice chair or inability of the chair and vice chair to perform any of the duties provided in this chapter, the executive director of the office of professional regulation may designate some other member as acting chair to perform the duties.

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ATTORNEY DISCIPLINARY BOARD

Rule 34.6 Iowa Supreme Court Attorney Disciplinary Board.

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34.6(3) The ~~assistant~~ director ~~for~~ of attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the "~~assistant~~ director" refers to the ~~assistant~~ director ~~for~~ of attorney discipline of the office of professional regulation. The ~~assistant~~ director is responsible to the disciplinary board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the disciplinary board may employ such other persons as it deems necessary for the proper administration of this chapter. The ~~assistant~~ director and other disciplinary board employees will receive such compensation and expenses as the supreme court may fix upon recommendation of the director of the office of professional regulation.

34.6(4) The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, submit to the supreme court for its consideration and approval a budget covering the operations of the disciplinary board for the upcoming fiscal year. This budget must include proposed expenditures for staff, support staff, office space, equipment, supplies, and other items necessary to administer the responsibilities of the disciplinary board as set out in this chapter. Supreme court approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund must be maintained for payment of authorized expenditures as provided in the approved budget. Funds derived from the annual disciplinary fee set out in Iowa Court Rule 39.5 must be deposited in the ethics operating account to the extent the supreme court authorizes each year for payment of the disciplinary board's authorized expenditures.

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Rule 34.8 Retention of disciplinary board records.

34.8(1) The disciplinary board must maintain files and records relating to allegations of misconduct by an attorney until destruction is authorized pursuant to the following schedule:

a. Files and records relating to potential complaints the ~~assistant~~ director declines to open pursuant to Iowa Court Rule 35.4(1) may be destroyed one year from the date of the last action on the file.

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GENERAL DISCIPLINARY RULES OF
GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

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Rule 34.12 Immunity.

34.12(1) Complaints submitted to the grievance commission or the disciplinary board and testimony regarding the complaints are privileged, and no lawsuit may be based on the complaints or testimony.

34.12(2) Claims against members of the grievance commission, the disciplinary board, the executive director, ~~assistant~~ directors, or the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

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Rule 34.16 Suspension or disbarment-revocation on consent.

34.16(1) An attorney subject to investigation by the disciplinary board or the Client Security Commission or subject to a pending grievance proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or disbarment-revocation but only by filing with the grievance commission an affidavit stating that the attorney consents to suspension of not more than a specific duration or to disbarmentrevocation. If a grievance proceeding is already scheduled for hearing, any such affidavit must be filed at least 15 days before the scheduled hearing date unless the 15-day limit is waived by the panel president. All affidavits filed under this rule must indicate the following:

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Rule 34.17 Disability suspension.

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34.17(6)

a. Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint the Client Security Commission, an attorney, or attorneys to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of Iowa Court Rule 39.18 and to the recommendation of the office of professional regulation. Any trustee appointment other than the Client Security Commission itself is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

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d. When the suspended attorney is reinstated to practice law in this state, all pending representation of clients is completed, or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the Client Security Commission, any undistributed client files may be ordered immediately destroyed.

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Rule 34.18 Death, suspension, or disbarment of practicing attorney.

34.18(1) Upon a sworn application on behalf of a local bar association, an attorney or entity designated or nominated on a standby basis as described in Iowa Court Rule 39.18, the Client Security Commission, or the disciplinary board showing that a practicing attorney has died or has been suspended or disbarred from the practice of law and that a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced may appoint an attorney or the Client Security Commission to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of rule 39.18 and the recommendation of the office of professional regulation. Trusteeships are specially assigned to the appointing chief judge, who will hear and rule upon all matters therein. The appointment of an attorney as trustee is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

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34.18(4) When all pending representation of clients is completed or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the Client Security Commission, any undistributed client files may be ordered immediately destroyed.

Rule 34.20 Suspension of attorney's license for failure to comply with a child support order. An attorney who fails to comply with a child support order may be subject to a suspension of the attorney's license to practice law in Iowa.

34.20(1) Procedure. Any certificate of noncompliance with a child support order that involves an attorney must be filed by the Child Support Recovery Unit (CSRU) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, ~~the director or an assistant director of~~ the office of professional regulation of the supreme court must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

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34.20(4) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, ~~the director of~~ the office of professional regulation is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

Rule 34.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.

An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be subject to suspension of the attorney's license to practice law in Iowa.

34.21(1) Procedure. The aid commission must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, ~~the director or an assistant director of~~ the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

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34.21(4) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation is authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

Rule 34.22 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.

An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be subject to suspension of the attorney's license to practice law in Iowa.

34.22(1) Procedure. The CCU must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, ~~the director or an assistant director of~~ the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

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34.22(4) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, ~~the director of~~ the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify attorneys subject to enforcement under Iowa Code chapter 272D.

Rule 34.23 Suspension generally.

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34.23(2)

(a) An attorney whose license has been suspended for a period not exceeding 60 days is not required to comply with the procedure set forth in rule 34.25 but instead must file an application for automatic reinstatement, and the court will order reinstatement of the attorney's license on the day after the suspension period expires, subject to the following exceptions at least seven (7) days before the attorney's date of reinstatement, certifying that:

(1) The attorney has completed all of the requirements set forth in the order(s) that suspended the attorney.

(2) All costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of Iowa Court Rules 39.14(2), 39.17, and 41.10(2) are completed.

(3) The attorney has complied with the notification requirements of rules 34.24.

(4) The attorney is not subject to any denials of reinstatement pursuant to rule 34.25(18), 34.25(19), or 34.25(20).

a.b. The disciplinary board or Client Security Commission may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection stays the automatic reinstatement until the supreme court orders otherwise. If the disciplinary board or Client Security Commission files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date.

b.c. Automatic reinstatement will not be ordered until all costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.14(2), 39.17, and 41.10(2) are completed.

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REINSTATEMENT AND READMISSION

Rule 34.25 Procedure on application for reinstatement or readmission. Any person whose certificate to practice law in this state has been suspended or revoked may apply for reinstatement or readmission subject to the following rules.

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34.25(2) Procedure. Upon filing of the application and recommendations with the supreme court clerk, the clerk must give written notice containing the date of the suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement, to the following persons:

- a. The attorney general.
- b. The county attorney where the applicant resides.
- c. The county attorney where the applicant resided at the time of suspension.
- d. The chair of the Iowa Board of Law Examiners.
- e. The ~~assistant~~ director ~~for~~ of attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of suspension.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided when the certificate was suspended.
- i. The president of The Iowa State Bar Association.

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34.25(12) Procedure. Upon direction of the supreme court, the supreme court clerk must give written notice of the revoked attorney's application for readmission containing the date of the revocation, the date of filing the application, and the date of the hearing set by the court, if any, to the following persons:

- a. The attorney general.
- b. The county attorney where the applicant resides.

- c. The county attorney where the applicant resided at the time of revocation.
- d. The chair of the Iowa Board of Law Examiners.
- e. The ~~assistant~~ director ~~for~~of attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of revocation.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided at the time of revocation.
- i. The president of The Iowa State Bar Association.

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34.25(18) *Denial of reinstatement for failure to comply with a child support order.* An attorney who fails to comply with a child support order may be denied reinstatement of the attorney's license to practice law in Iowa.

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d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and ~~the director of~~ the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

34.25(19) *Denial of reinstatement for default on student loan obligation.* An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be denied reinstatement of the attorney's license to practice law in Iowa.

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(d) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

34.25(20) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.

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(d) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

CHAPTER 36

GRIEVANCE COMMISSION RULES OF PROCEDURE

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Rule 36.11 Time and place of hearing. The grievance commission chair or the division president to whom a complaint has been referred must direct a hearing to be held upon the complaint in the respondent's county of residence or, at the discretion of the grievance commission chair, within any other judicial district as most nearly serves the convenience of the parties and must designate by written order the time and place for the hearing. If the respondent files written objections to conducting the hearing in the respondent's county of residence, the hearing must be held at such other place as the grievance commission chair or division president directs by written order, in which case a new notice of the hearing date must be given. If all parties and the division president agree, the hearing may be held by videoconference or telephone.

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Rule 36.16 Stipulated submissions.

36.16(1) The parties may stipulate and agree to waive formal hearing and submit the complaint to the grievance commission for its decision on the basis of a written stipulation the parties approve and file with the grievance commission clerk. The grievance commission may consider the complaint on the basis of the stipulation, refuse to accept the stipulation and proceed with a formal hearing, or accept the stipulation but conduct a limited hearing to elicit such additional evidence as the grievance commission may deem necessary to facilitate informed consideration of the complaint. A stipulation under this rule must be submitted not less than 15 days before the date set for hearing. A stipulation submitted pursuant to this rule may include a statement regarding the proposed discipline, including additional or alternative sanctions as provided in rule 36.19. A stipulation submitted pursuant to this rule must include:

a. For each rule violation stipulated, a separate paragraph stating supporting facts sufficient to allow the grievance commission and the supreme court to find a factual basis for concluding the violation occurred.

b. A separate statement of conclusions of law as to the stipulated violations.

c. A separate description of mitigating and aggravating circumstances.

d. A stipulation as to all exhibits.

e. A waiver of the formal hearing as to matters contained in the stipulation, the parties' agreement to submit the matter on the basis of the stipulation, and an agreement to closure of the record unless the grievance commission directs further proceedings.

f. If the parties stipulate to a sanction, a separate paragraph supported by citations to prior Iowa Supreme Court discipline decisions and a discussion as to why those decisions support the stipulated sanction.

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Rule 36.20 Additional time for decision upon request. If the grievance commission cannot reasonably make its determination or file its report within 60 days of the date set for the filing of the last responsive brief and argument, the division president may file a request for an extension of time with the grievance

commission clerk prior to expiration of the 60-day period. The clerk must serve a copy of the request on the grievance commission chair and the parties. The grievance commission chair must file a written decision on the extension request with the grievance commission clerk, who must serve a copy on all parties. If the division fails to file its decision or a request for an extension of time within 60 days of the date set for the filing of the last responsive brief and argument, the grievance commission clerk must promptly notify the executive director of the office of professional regulation of the failure.

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Rule 36.24 Costs.

36.24(1) In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court will assess against the respondent the costs of the proceeding. For the purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625. Transcript costs for hearings before the grievance commission are not subject to the maximum compensation amounts for shorthand reporters set forth in Iowa Court Rule 22.28. Transcript costs will be taxed at the actual amount the grievance commission expends.

CHAPTER 37 COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 37.1 Commission on the Unauthorized Practice of Law.

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37.1(2) The executive director of the office of professional regulation will designate ~~an assistant~~the director ~~for of~~ boards and commissions of the office of professional regulation to serve as the principal administrator for the commission on the unauthorized practice of law. Wherever in this chapter a reference to the ~~“assistant “director”~~ appears, it refers to the ~~assistant~~ director ~~for of~~ boards and commissions of the office of professional regulation.

37.1(3) Commission expenses must be paid from the disciplinary fee account of the Clients' Security Trust Fund of the Bar of Iowa. The executive director of the office of professional regulation must, annually on or before May 1 or on a date otherwise specified by the supreme court, submit a budget to the supreme court for the next fiscal year.

CHAPTER 38
RULES OF PROCEDURE OF THE COMMISSION ON THE
UNAUTHORIZED PRACTICE OF LAW

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Rule 38.2 Definitions. In this chapter unless the content or subject matter otherwise requires:

38.2(1) ~~“Assistant director”~~ “Director” means the ~~assistant~~ director ~~for of~~ boards and commissions designated by the executive director of the office of professional regulation.

38.2(2) “Chair” means the presiding officer of the commission and includes the chair of the commission, the vice chair, or any acting chair designated by the commission to preside in the absence of the chair.

38.2(3) “Commission” means the Commission on the Unauthorized Practice of Law.

38.2(4) “Respondent” is the person or entity whose conduct is the subject of a complaint to the commission or a proceeding in district court pursuant to Iowa Court Rule 37.2.

38.2(5) “Must” is mandatory and “may” is permissive.

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Rule 38.5 Complaints to the commission. Complaints may be accepted from any person or other entity believing that an individual or entity has been engaged in the unauthorized practice of law.

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38.5(3) Complaints must be filed by submitting them to the ~~assistant~~ director at the office of professional regulation.

....

Rule 38.6 Investigation procedure.

....

38.6(3) When considering a complaint, the commission must act in accordance with the following guidelines:

....

c. If the commission determines that a complaint should be investigated further, it may direct that the investigation be conducted by a commission member or members or by the ~~assistant~~ director.

CHAPTER 39 CLIENT SECURITY COMMISSION

....

Rule 39.2 Principal executive officer.

39.2(1) Appointment. The executive director of the office of professional regulation serves as the principal executive officer of the commission. ~~Wherever in this chapter a reference to the “director” appears, it refers to the director of the office of professional regulation.~~ The executive director may designate ~~an assistant a~~ director of client security for boards and commissions to assist with the duties described in this chapter.

39.2(2) Duties of the executive director. Subject to the supervision of the supreme court and the commission, the executive director must do the following:

....

Rule 39.4 Audit; banking; budget.

....

39.4(2) Banking and disbursements. The executive director of the office of professional regulation must maintain the assets of the fund in a separate account and may disburse moneys from the fund only at the direction of the supreme court or upon the action of the commission pursuant to this chapter. A separate bookkeeping account designated as the disciplinary fund account must be maintained within the fund for moneys derived from the annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment income derived from the investment of the income from annual disciplinary fees and penalties must be placed in the disciplinary fund account.

39.4(3) Budget. At least 60 days prior to the commencement of each fiscal year or on a date otherwise specified by the supreme court, the executive director of the office of professional regulation must submit to the supreme court its budget of operations of such year, which may be amended thereafter as necessity dictates.

....

Rule 39.7 Exemption; retirement.

39.7(1) Certificate of exemption. A member of the bar of the supreme court who is not engaged in the practice of law in the State of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment except for an annual exemption fee of \$50 and late filing penalties will be required from such member unless the member thereafter engages in the practice of law in the State of Iowa, in which case the certificate of exemption must without further order of court stand revoked, and the member must file at once the statement required by rule 39.8(1) and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption must file with the director such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member’s status. Applications for a certificate of exemption must be submitted concurrently under rules 39.7(1), 41.7, and 42.6.

39.7(2) Certificate of relinquishment. A member of the bar of the supreme court

who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no fee, assessment, annual statement, or questionnaire is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the director commission such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13.

....

Rule 39.8 Enforcement.

39.8(1) To facilitate the collection of the annual fees and assessments provided for in rules 39.5, 39.6, 39.7(1), and 39.17, all members of the Iowa bar required to pay the fees and assessments must, on or before March 10 of each year, file a statement, on a form prescribed by the executive director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the executive director may from time to time direct. In addition to such statement, every bar member must file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court must file the statement required by this rule at the time of admission but no annual fees or assessments are payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year must, in addition to the annual fees and assessments provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected will be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

If filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
After June 11	\$250

....

Rule 39.10 Investigations; audits.

39.10(1) Each member of the bar of Iowa, in filing the statement required by rule 39.8(1), must authorize the executive director to investigate, audit, and verify all funds, securities, and other property held in trust by the member, and all related accounts, safe deposit boxes, and any other forms of maintaining trust

property as required by Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules, together with deposit slips, canceled checks, and all other records pertaining to transactions concerning such property.

39.10(2) Each member of the bar of Iowa must comply promptly with any request by the executive director to execute and deliver to the director a written authorization, directed to any bank or depository, for the director to audit and inspect such accounts, safe deposit boxes, securities, and other forms of maintaining trust property by the member in such bank or other depository.

39.10(3) Each member of the bar of Iowa must do all of the following:

a. Cooperate fully with the executive director in any investigation, audit, or verification of any funds, securities, or property held in trust by that lawyer.

b. Answer all questions posed by the executive director that relate to any investigation, audit, or verification, unless claiming the privilege against self-incrimination.

c. Retain complete records of all trust fund transactions for a period of not less than six years following completion of the matter to which they relate, in accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Court Rule 45.2(3).

39.10(4) The commission with the approval of the supreme court may retain, compensate from the fund, and furnish as staff for the executive director, such public or certified accountants, investigators, or attorneys as may be deemed necessary to carry out the duties and functions imposed upon the executive director. When acting under the executive director's supervision and direction, such staff personnel have all the powers granted to the executive director by this chapter.

39.10(5) When the investigation, audit, or verification provisions of this chapter disclose, in the opinion of the executive director, a violation of the Iowa Rules of Professional Conduct, or when the member of the bar of Iowa affected by the investigation, audit, or verification has refused to comply with the provisions of this chapter, the director must promptly report such circumstances to the commission. A copy of such report must be furnished to the member affected.

39.10(6) Client trust funds and property held by an Iowa licensed attorney whose law office is situated in another state are not subject to investigation, audit, or verification except to the extent such funds and property are related to matters affecting Iowa clients. State or federal funds or property subject to state or federal auditing procedures and in control of an Iowa licensed attorney employed full- or part-time by a state or the United States are not subject to investigation, audit, or verification under the provisions of this chapter.

39.10(7) The costs of performing a trust account audit must be assessed to the attorney or attorneys who are signatories on the account if the audit reveals the account was not in substantial compliance with Iowa Rule of Professional Conduct 32:1.15 or chapter 45 of the Iowa Court Rules, and one or more of the following circumstances caused performance of the audit:

a. A claim for reimbursement was filed under the provisions of rule 39.9 based on the alleged conduct of the attorney or attorneys who are signatories on the account.

b. A notice of insufficient funds to honor an instrument drawn on the account was reported to the commission under the provisions of Iowa Court Rule 45.4(4)(c).

c. A complaint alleging an attorney signatory on the account committed a disciplinary infraction was filed with the attorney disciplinary board under the provisions of Iowa Court Rule 35.1.

d. An attorney signatory on the account was suspended from practice under

the provisions of chapter 35 of the Iowa Court Rules.

e. An attorney signatory on the account failed to timely file the statement and questionnaire required by rule 39.8.

f. An attorney signatory on the account was served a 15-day notice under rule 39.8(2) based on failure to cooperate with investigation and audit of the account as required by rule 39.10.

g. A trustee was appointed under the provisions of Iowa Court Rule 34.17 or 34.18 for an attorney signatory on the account.

h. An attorney signatory on the account was issued a certificate of noncompliance pursuant to Iowa Court Rule 34.20(1), 34.21(1), or 34.22(1).

i. The Client Security Commission specifically directed the audit.

39.10(8) Costs assessed under rule 39.10(7) are due upon assessment by the commission. Costs assessed under this rule must be paid as a condition of reinstatement, and may be collected by the commission as part of the annual statement and assessment required by rule 39.8 if not previously paid.

Rule 39.11 Annual questionnaire.

39.11(1) The executive director, under the supervision of the supreme court and the commission, will prepare a questionnaire to be annually submitted to and completed by each member of the bar of Iowa, except those who have been issued a certificate of exemption pursuant to rule 39.7. The questionnaire may be, but is not required to be, incorporated as a part of the annual statement provided in rule 39.8(1). This purpose of this questionnaire is to elicit information to determine whether the member is complying with the Iowa Court Rules, including but not restricted to, Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the rules. The commission may prescribe an electronic format for the questionnaire and annual statement and require submission of the questionnaire and annual statement in that form.

39.11(2) A failure to complete and return a questionnaire will be addressed as provided in rule 39.12.

Rule 39.12 Investigations; audits; annual questionnaire; enforcement.

....

39.12(2) *Violation of the Iowa Rules of Professional Conduct.*

a. When the audit, investigation, or verification of funds, securities, or other property held in trust by any member of the bar of Iowa, or an answer of any member on the annual questionnaire, discloses an apparent violation of the Iowa Rules of Professional Conduct, the director upon request of the commission, or the commission, may privately admonish, refer to the Attorney Disciplinary Board, or institute disciplinary proceedings under chapter 36 of the Iowa Court Rules for the suspension or revocation of the member's license to practice law in this state.

....

Rule 39.14 Reinstatement from exemption or suspension.

39.14(1) An attorney who has been suspended for failure to pay the annual fee or assessment or for failure to file the statement, supplement, or questionnaire required by these rules may be reinstated ~~upon a showing that such failure was not willful and~~ by filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11. An attorney seeking reinstatement

after suspension for failure to comply with the provisions of this rule must pay all delinquent fees, assessments and late filing penalties due under rules 39.5, 39.6, 39.8, and 39.17, and a reinstatement fee of \$100.

• • • •

Rule 39.17 Collection of court costs and other fees.

• • • •

| **39.17(4)** The executive director of the office of professional regulation must pay to the state general fund all fees, penalties, and court costs due the state general fund and collected under this provision.

CHAPTER 40
REGULATIONS OF THE CLIENT SECURITY COMMISSION

....

Rule 40.3 Processing applications.

40.3(1) The executive director of the office of professional regulation will cause each such application to be sent to the commissioners or other parties or organizations for investigation and report. A copy must be served upon or sent by certified mail to the lawyer, at the lawyer's last-known address, who it is claimed committed the dishonest act. Whenever feasible, any investigative lawyer to whom such application is referred must not practice in the county wherein the alleged defalcating attorney practiced.

....

40.3(4) Reports with respect to applications must be submitted by the executive director of the office of professional regulation to each member of the commission as soon as reasonably possible.

CHAPTER 41 CONTINUING LEGAL EDUCATION FOR LAWYERS

....

Rule 41.10 Reinstatement from suspension.

41.10(1) An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be reinstated ~~upon a showing that such failure was not willful and~~ by filing such report showing completion of all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule must pay all delinquent fees and late filing penalties due under rule 41.4 and a reinstatement fee of \$100.

CHAPTER 42
REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL
EDUCATION

....

Rule 42.2 Continuing legal education requirements.

42.2(1) A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Court Rule 41.3(1). Beginning January 1, 2021, ~~every year each attorney must also complete a minimum of one hour of legal education at least one hour of these 15 hours must be~~ devoted specifically to the area of legal ethics and at least one hour ~~of legal education~~ devoted specifically to the area of either attorney wellness or diversity and inclusion.

....

Rule 42.8 Staff. The executive director of the office of professional regulation may designate ~~an assistant~~ director ~~for~~ boards and commissions of the office of professional regulation to serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who must perform such duties as the commission may from time to time direct.

CHAPTER 43 LAWYER TRUST ACCOUNT COMMISSION

....

Rule 43.4 Director.

43.4(1) Appointment. The executive director of the office of professional regulation serves as the principal executive officer of the commission. ~~All references to “director” in this chapter refer to the director of the office of professional regulation.~~ The executive director may designate an assistant director for boards and commissions to assist with the duties described in this chapter.

43.4(2) Duties. The executive director is responsible and accountable to the commission for the proper administration of these rules.

43.4(3) Services. The executive director may employ persons or contract for services as the commission may approve.

....

Rule 43.8 Applicability of Iowa Tort Claims Act. Claims against members of the commission and the executive director, ~~assistant~~ directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

CHAPTER 46
RULES OF THE BOARD OF EXAMINERS OF SHORTHAND
REPORTERS

....

Rule 46.3 Organization; meetings; information.

....

46.3(4) The executive director of the office of professional regulation will serve as the administrator for the board. Information may be obtained from the executive director at the Office of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, by mail or in person during office hours.

CHAPTER 47 COURT INTERPRETER AND TRANSLATOR RULES

[Prior to April 1, 2008, see Chapter 14]

Rule 47.1 Definitions. As used in this chapter:

47.1(1) *Certified deaf interpreter (CDI)*. A “CDI” is an interpreter who is deaf, has obtained a Certified Deaf Interpreter certificate or a Certified Legal Interpreter Provisional—Relay (CLIP-R) certificate from the Registry for Interpreters for the Deaf (RID), and who provides interpreting services to deaf persons with linguistic differences that prevent them from fully utilizing a traditional American Sign Language (ASL) interpreter.

47.1(2) *Court interpreter or interpreter*. A “court interpreter” or “interpreter” means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding.

47.1(3) *Court-ordered program*. A “court-ordered program” is a predisposition program in which a court has ordered a party to participate.

47.1(4) *Court personnel*. “Court personnel” includes clerk of court staff and district court administration staff.

47.1(5) *Court proceeding*. A “court proceeding” is any action before a state court judicial officer that has direct legal implications for any person.

47.1(6) *Legal proceeding*. A “legal proceeding” includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

47.1(7) *Limited English proficient (LEP) participant or person*. An “LEP participant” or “LEP person” has a limited ability to speak, read, write, or understand English because the person’s primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

47.1(8) *Participant in a legal proceeding*. A “participant in a legal proceeding” is any of the following: a party or witness in a court or legal proceeding; a party participating in a court-ordered program; a parent, guardian, or custodian of a minor party involved in a juvenile delinquency proceeding; a deaf, deaf-blind, or hard-of-hearing attorney; or a deaf, deaf-blind, or hard-of-hearing person summoned for jury duty or grand jury duty.

47.1(9) *Reasonably available interpreter*. Subject to the exceptions identified in rule 47.3(6), a “reasonably available interpreter” is an interpreter available and willing to provide in-person services at the time and location of the legal proceeding and who resides within 150 miles of the location where the legal proceeding will occur. A reasonable distance could be more than 150 miles when an interpreter of an uncommon language is needed or the case could result in serious consequences for one of the parties, including but not limited to termination of parental rights, a sentence to serve time in a state correctional facility, or substantial financial damages.

47.1(10) *Translator*. A “translator” accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

Rule 47.2 Minimum qualifications of a court interpreter.

47.2(1) Qualifications.

a. *Minimum age.* A court interpreter must be at least 21 years old.

b. *Education.* A court interpreter must have completed at least the equivalent of two years or 48 credit hours of college courses or must have completed the requirements in rule 47.4 or 47.5 to qualify for the Iowa roster of court interpreters.

c. *Approval of ~~office of professional regulation~~ state court administration.*

(1) *Court interpreter application form.* A court interpreter must complete an application form, developed by ~~the director of the Office of Professional Regulation of the Iowa Supreme Court (the OPR)~~ state court administration, on which the interpreter provides information about the interpreter's education, experience, prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

(2) *Criminal records search.* A criminal records search will be completed by ~~the OPR~~ state court administration or a designee of ~~the OPR~~ state court administration at the time the application to be a court interpreter is filed with ~~the OPR~~ state court administration. The criminal record search may be waived for an interpreter who has had a criminal records search completed by ~~the OPR~~ state court administration or a designee of ~~the OPR~~ state court administration within six months of the filing date of the application.

(3) *No prior disqualifying misconduct.* ~~The OPR~~ State court administration will review the applicant's application and criminal background check for possible disqualifying misconduct as identified in rule 47.2(1)(c)(3). When reviewing possible disqualifying misconduct, ~~the OPR~~ state court administration will weigh any mitigating or aggravating factors identified in rule 47.10(6) and the applicant's candor in the application process. ~~The OPR~~ State court administration may determine whether the misconduct disqualifies the applicant from being a court interpreter. Possible disqualifying misconduct includes:

....

Rule 47.3 Scheduling and appointing a court interpreter.

....

47.3(7) Interpreter services through remote audio or video communications technology.

a. For a court proceeding expected to last approximately two hours or less, a court may appoint an appropriate interpreter available through a remote audio or video interpreter service.

b. A court may appoint a remote audio or video interpreter only from a service ~~the~~ state court administrator administration has approved.

....

h. If the court declines to appoint an interpreter who appears at a court proceeding or discontinues use of an interpreter after a court proceeding has begun and the hearing will be approximately two hours or less, the court may obtain an interpreter through a remote interpreter service approved by ~~the~~ state court administrator administration; otherwise the court may postpone the court proceeding to allow time for court personnel to procure the services of a qualified interpreter consistent with the criteria in rules 47.3(4) through (6).

47.3(8) Order appointing a court interpreter.

....

d. An order appointing an interpreter must identify the interpreter's classification under rule 47.4, identify the sign or oral language for which the interpreter is needed, and set the level of compensation for the interpreter consistent with ~~the~~ state court ~~administrator's~~administration's standard statewide fees and policies for compensation.

....

Rule 47.6 Iowa roster of court interpreters.

47.6(1) Management. ~~The director of the OPR~~State court administration will maintain and publish the Iowa roster of court interpreters and may determine the order in which interpreters must complete the testing and training requirements in rule 47.4 to qualify for the roster. ~~The OPR State court administration~~ may remove an interpreter from the roster or change an interpreter's classification on the roster if a roster interpreter takes or retakes the oral language certification exam and achieves a score on one or more parts of the exam that is less than the minimum scores required to be on the roster. ~~The OPR State court administration~~ may also require a roster interpreter to retake the oral language interpreter certification exam if ~~the OPR state court administration~~ learns through an investigation that the interpreter failed to interpret at a level of competency comparable to the minimum language proficiency qualifications for being on the roster in rule 47.6(2)(d).

47.6(2) Testing and training requirements. Beginning July 1, 2019, to be included on the roster, an interpreter must meet the qualifications in rule 47.4 and the following requirements:

a. *Ethics exam.* All interpreters must take a written exam on the Code of Professional Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the interpreter has taken the same or a similar exam in another state within the past five years and achieved a score of at least 75 percent correct.

b. *Written exam approved by the NCSC.* Interpreters must achieve a score of at least 80 percent correct on a written exam for court interpreters that the National Center for State Courts (NCSC) has approved and that includes at least the following areas: general English vocabulary, legal terminology, and legal procedures. This requirement may be waived by ~~the director of the OPR state court administration~~ if the interpreter has taken the same test in Iowa or another jurisdiction within the past five years, achieved a score of 80 percent correct, and has regularly provided court interpreter services each year since taking the exam.

c. *Court interpreter orientation program.* An interpreter must complete the court interpreter orientation program approved by ~~the director of the OPR state court administration~~. ~~The director of the OPR State court administration~~ may waive this requirement for an interpreter who has completed a similar training program in another jurisdiction, and who has regularly provided court interpreter services each year since completing that program.

d. *Oral interpretation exam.*

(1) An interpreter of a language for which one of the testing organizations identified in rule 47.4(1) offers a court interpreter certification exam must take one of the exams and achieve a score of at least 55 percent correct on each of the three parts of the exam (sight, consecutive, and simultaneous interpretation).

(2) An interpreter of a language for which the NCSC does not offer a court interpreter certification exam must take the ALTA Language Services oral

proficiency interview (speaking and listening) exam in English and the interpreter's other language, under the supervision of a designee of ~~the director of the OPR state court administration~~, and must achieve a score of at least 11 (on a scale of 12) on each exam.

47.6(3) *Retaking the court interpreter written and oral interpretation exams.*

a. Written multiple-choice exams. An interpreter may retake a written multiple-choice exam once in a six-month period. When there are multiple versions of a written exam, ~~the OPR state court administration~~ will rotate the exam versions.

b. Oral language certification exams ~~the OPR state court administration~~ *conducts.* For oral language certification exams ~~the OPR state court administration~~ *conducts*, an interpreter may retake the same version of an exam once in a 12-month period. When there are multiple versions of the oral language certification exam, an interpreter must wait six months before taking a different version of the exam.

....

Rule 47.8 Application and test registration fees.

....

47.8(5) All fees set forth in this rule must be paid to ~~the OPR state court administration~~. The interpreter application fee is due at the time the application is filed. Test registration fees are due on or before the registration deadline established by ~~the OPR state court administration~~.

Rule 47.9 Language Access in the Courts Advisory Committee. The Iowa Supreme Court will appoint a Language Access in the Courts Advisory Committee (advisory committee) to provide guidance to ~~the state court administrator administration~~ regarding language access policies in the courts and to assist ~~the OPR state court administration~~ in administering the ~~continuing education and~~ disciplinary systems for court interpreters and translators.

Rule 47.10 Complaint and disciplinary process.

47.10(1) *Purpose.* These rules establish the procedure whereby an oral or sign language interpreter or translator may be removed or suspended from the roster described in rule 47.6.

47.10(2) *Applicability.* These rules apply to the delivery of services by oral and sign language interpreters or translators in any legal proceeding, court-ordered program, or office of the Iowa Judicial Branch.

47.10(3) *Procedures for complaints against oral language court interpreters or translators.*

a. Complaints. A complaint against a court interpreter or a translator must be filed with ~~the OPR state court administration~~ on a form available from that office or through the Iowa Judicial Branch website. A complaint must be signed by the complainant, provide the complainant's full address, telephone number, and email address, if any, and contain substantiating evidence supporting the complaint. ~~The OPR or the state court administrator State court administration~~ may also initiate a complaint.

b. Review of complaints. ~~The OPR State court administration~~ will review all complaints and may seek additional information from the complainant as well as a response from the court interpreter or translator if ~~the OPR state court~~

administration deems necessary. If ~~the OPR state court administration~~ determines that the allegations made within the complaint are serious enough to warrant the suspension or removal of the court interpreter or translator from the roster, then ~~the OPR state court administration~~ will forward the complaint, response, and any investigative materials to the chair of the advisory committee. The chair will appoint a panel of at least three advisory committee members to consider the complaint.

c. Dismissal of complaints. The advisory committee panel may dismiss the complaint without further action if it appears the complaint wholly lacks merit, alleges conduct that does not constitute misconduct or rise to the level of a disciplinary violation under the Code of Professional Conduct for Court Interpreters and Translators, or does not comply with the requirements for a complaint or is not supplemented as requested. In such instances, ~~the OPR state court administration~~ will notify the complainant of the advisory committee panel's decision. The advisory committee panel's summary dismissal is not subject to review.

d. Responses to complaints. If the advisory committee panel does not dismiss the complaint, it will notify the interpreter or translator of the complaint in writing. The notice should state that the interpreter or translator may provide a written response to the complaint, request a hearing, or both, within 30 days from the date of the notice. If a written response has previously been provided, the advisory committee panel may, at its discretion, request a supplemental response.

e. Advisory committee action. If the advisory committee panel does not dismiss the complaint, the panel will review the complaint upon the papers filed unless the interpreter or translator requests a hearing or the panel determines that a hearing is necessary.

f. Hearing and decision.

(1) *Time and format of hearing.* A hearing will be scheduled to occur within 60 days after the complaint is assigned to the advisory committee panel. The hearing will be informal and strict rules of evidence will not apply. During the hearing, the interpreter or translator has the right to be represented by counsel at the interpreter's or translator's expense, to confront and cross-examine witnesses, and to present evidence.

(2) *Location; subpoenas; recording.* The hearing will be held at the Judicial Branch Building unless ~~the OPR state court administration~~ and the interpreter or translator agree otherwise. An advisory committee panel member, the interpreter or translator, ~~the director of the OPR state court administration~~, or ~~the director's state court administration's~~ designee, may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas in connection with the matter, and the clerk will issue the subpoenas. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing will be recorded electronically, unless the interpreter or translator pays for a court reporter and the subsequent transcript, if necessary.

(3) *Burden of proof.* Any grounds for discipline under rule 47.10(5) must be shown by a convincing preponderance of the evidence.

(4) *Advisory committee panel actions.* The advisory committee panel may:

1. Dismiss the complaint.
2. Impose a private admonition.
3. Require the interpreter to refund fees to a client for court interpreter services by a specified date to remain on the roster.
4. Require that the interpreter take specified education courses by a specified

date to remain on the roster.

5. Require that the interpreter retake and pass ~~the written, oral certification, and/or ethics examinations~~ one or more of the three examinations identified in rule 47.6(2) by a specified date to remain on the roster.

6. Suspend or revoke the interpreter's roster status or certification, if any.

7. Suspend or bar the interpreter from interpreting in legal proceedings or court-ordered programs, or both.

(5) *Advisory committee panel decision.* The advisory committee panel will file a written decision with the chair of the advisory committee, with a copy sent to ~~the OPR state court administration.~~ The OPR State court administration will promptly forward a copy of the decision to the interpreter or translator by email and ordinary mail to the address on record with ~~the OPR state court administration.~~ If the determination of the advisory committee panel was a suspension or revocation of the interpreter or translator's roster status or certification, ~~the OPR state court administration~~ will immediately remove the interpreter or translator from the roster unless otherwise instructed in writing by the chair of the advisory committee.

g. Petition for review. The interpreter or translator may file a petition for review of the advisory committee panel's decision with ~~the~~ state court administrator~~administration~~. The petition for review must be received by the state court administrator within 30 days after ~~the OPR state court administration~~ mails the decision to the interpreter or translator. The petition must state all claims of error that were raised before the panel and the reasons for challenging the panel's determination. ~~The OPR State court administration~~ will transmit the complete record in the case to the state court administrator.

h. Submission and decision on review. Unless ~~the~~ state court administrator~~administration~~ requests otherwise, the petition will be submitted based upon the record previously made and without supplementation or hearing. After considering the record, ~~the~~ state court administrator~~administration~~ or ~~the~~ state court administrator's~~administration's~~ designee may sustain or deny the petition or enter such other appropriate order. ~~The state~~ State ~~court administrator's~~ administration's order is conclusive, and no petition for rehearing is permitted.

i. Costs. Costs of the disciplinary proceeding will be assessed against the interpreter or translator for any private admonition, public sanction, or any agreed disposition that taxes costs against the interpreter or translator. For purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including but not limited to expert witness fees and translation, transcription, and interpreter fees. The interpreter or translator must pay the costs as a condition for reinstatement.

j. Application for reinstatement. An interpreter or translator may file an application for reinstatement from an order suspending or revoking a certification, roster status, or privilege of interpreting or translating in court. The application must be filed with ~~the OPR state court administration~~ and include payment of a \$100 reinstatement fee. The application must show that all conditions for reinstatement imposed in the panel's decision or any resulting state court ~~administrator~~ administration decision have been satisfied, the interpreter or translator is currently fit to interpret or translate in court, and all costs have been paid. The interpreter or translator must also swear or affirm that the interpreter or translator did not provide interpreting or translating services in any legal or court proceeding during the suspension period.

k. Reinstatement decision. ~~The OPR State court administration~~ will review the application for reinstatement and, if the requirements have been fulfilled, may

reinstate the interpreter or translator on the roster. If any requirement has not been fulfilled, ~~the OPR state court administration~~ will inform the interpreter or translator of what remains to be completed before reinstatement on the roster can occur.

l. Confidentiality.

(1) All records, papers, proceedings, meetings, and hearings of the advisory committee panel are confidential, unless the panel imposes the following: a public reprimand; a suspension or revocation of a certification, roster status, or privilege to interpret or translate before the courts; a requirement that fees be refunded to a client for court services; or a form of discipline that the panel and the interpreter or translator agree should be made public.

(2) If the advisory committee panel imposes public discipline, the decision and the complaint will become public upon filing with ~~the OPR state court administration~~.

....

m. Temporary suspension. Notwithstanding the provisions of this rule, ~~the~~ state court ~~administrator administration~~ may temporarily remove an interpreter or translator from the roster and suspend the interpreter's right to interpret or translate in legal proceedings, court-ordered programs, and offices of the Iowa Judicial Branch upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court Interpreters and Translators or exigent circumstances demonstrating that the interpreter or translator currently lacks the capacity to interpret court proceedings or translate court documents. Any suspension of an interpreter's or translator's right to interpret or translate in Iowa courts must provide the interpreter or translator with an opportunity to file a petition for review with ~~the~~ state court ~~administrator administration~~ explaining why the temporary suspension order should be lifted.

47.10(4) Procedures for complaints against sign language court interpreters.

a. Complaints. A complaint against a sign language court interpreter must be filed with the Iowa Board of Sign Language Interpreters and Translators (board) and must follow the procedures outlined in Iowa Administrative Code 645—Chapter 363, Discipline for Sign Language Interpreters and Translators.

b. Notice to ~~the OPR state court administration~~. A sign language interpreter who receives a notice from the board that a complaint has been filed against the interpreter must promptly provide written notice to ~~the director of the OPR state court administration~~ that a complaint has been filed against the interpreter, including the date the complaint was filed and a description of the alleged misconduct. The interpreter also must promptly provide written notice to ~~the director of the OPR state court administration~~ after the disciplinary process has been concluded, including the date and type of disposition. A sign language interpreter's failure to provide these notices will be considered grounds for disciplinary action and a disciplinary process may be commenced under procedures in rule 47.10(3).

....

Rule 47.12 Court interpreter and translator compensation.

47.12(1) Claims for compensation. After providing services in any legal proceeding or court-ordered program for which an interpreter or translator will be paid by a state or county office, the interpreter or translator must submit a claim for compensation to the court using a fee claim form approved by ~~the~~ state

court ~~administrator~~administration. Upon review and approval of the claim, the court will enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator.

47.12(2) *Policies for compensation of court interpreters and translators.* ~~The state~~State court ~~administrator~~administration will establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with state court ~~administrator~~administration policies.

Rule 47.13 Written translations of court-related material.

....

47.13(4) *Compensation of a translator.* A translator whom the court appoints under rule 47.13(3) will receive the standard fee per word or per hour depending on the material to be translated. The standard translation fees will be established in an administrative directive by ~~the~~ state court ~~administrator~~administration pursuant to rule 47.12(2). The court may approve a higher fee only if the court is unable to locate a qualified translator who is able to send and receive court-related materials via electronic mail, can perform the requested translation services by the required date, and will provide the translation service for the standard fee established by ~~the~~ state court ~~administrator~~administration. A translator approved under this rule must submit a claim for compensation consistent with rule 47.12(1).

....

Rule 47.16 Administration.

47.16(1) ~~The OPR assistant director for admissions~~language access coordinator will serve as the principal executive officer for matters pertaining to the qualifications, classification, examination, continuing education, and discipline of court interpreters. ~~The OPR director may~~State court administration, subject to the approval of the supreme court, may employ such other employees as may be necessary to carry out the duties of this chapter of the Iowa Court Rules.

~~**47.16(2)** At least 60 days prior to the start of each fiscal year, the director of the OPR will submit to the supreme court for consideration and approval a budget for the upcoming fiscal year covering the operations provided for in this chapter. The supreme court's approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the court interpreter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement will be deposited in the court interpreter operating account for payment of the expenditures authorized by the approved budget.~~

Rule 47.17 Immunity.

47.17(1) *Claims.* Claims against ~~the OPR director, assistant directors,~~state court administration and staff, or against members of the advisory committee, are subject to the State Tort Claims Act set forth in Iowa Code chapter 669.

47.17(2) *Immunity.* ~~The OPR director, assistant directors,~~State court administration and staff₂ and members of the advisory committee₂ are immune

from all civil liability for damages for the conduct, communications, and omissions occurring in the performance of and within the scope of their official duties under these rules.

47.17(3) *Qualified immunity.* Records, statements of opinion, and other information regarding an interpreter that are communicated by an entity, including any person, firm, or institution, without malice, to ~~the OPR director, assistant directors, state court administration~~ and staff, and the members of the advisory committee, are privileged; civil suits for damages predicated thereon may not be instituted.

CHAPTER 49

OFFICE OF PROFESSIONAL REGULATION

Rule 49.1 Office of Professional Regulation of the Supreme Court of Iowa.

There is hereby created the Office of Professional Regulation of the Supreme Court of Iowa. The office of professional regulation consists of the following persons:

49.1(1) ~~A~~executive director, appointed by the supreme court. The executive director is responsible to the supreme court for the administration and program functions of the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the attorney disciplinary board, the unauthorized practice of law commission, the board of examiners of shorthand reporters, and the board of law examiners. The executive director also is responsible for administration of the court interpreter examination program.

49.1(2) ~~An assistant~~A director ~~for of~~ attorney discipline, appointed by the executive director with the approval of the supreme court. The ~~assistant~~ director ~~for of~~ attorney discipline is responsible to the executive director of the office of professional regulation for the administration of the attorney disciplinary board.

49.1(3) Such other ~~assistant~~ directors, appointed by the executive director of the office of professional regulation with the approval of the supreme court, to be responsible to the director of the office of professional regulation for administration of boards and commissions as the executive director may designate.

49.1(4) Such other staff members as the supreme court may from time to time direct, appointed by the executive director with the approval of the court.

Rule 49.2 Board and commission budgets. Annual budgets for the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the board of examiners of shorthand reporters, the board of law examiners, the unauthorized practice of law commission, and the court interpreter examination and licensing program, must be prepared for each fiscal year running from July 1 through June 30. At least 60 days prior to the start of each fiscal year or on date otherwise specified by the supreme court, the executive director must submit to the supreme court annual operating budgets for each of these boards and commissions, which may be amended as necessary.